FILED

09-705 NOV 10 2009

No. _____

IN THE OFFICE OF THE CLERK
SUPREME COURT OF THE UNITED STATES

FRANCISCO MOLINA JR. IN PRO SE
PETITIONER

vs.

CHEVRON U.S.A. INC., S.W.A.T. ENERGY INC., STEVE TANG, EDDY WU, MARIAN TANG
RESPONDENTS

ON PETITION FOR A WRIT OF CERTIORARI TO CALIFORNIA SUPREME COURT S175223 PETITION FOR REVIEW DENIED 09-09-2009 versus CHEVRON U.S.A.; CALIFORNIA SUPREME COURT S174431 PETITION FOR REVIEW DENIED09-09-2009 versus SWAT ENERGY INC CALIFORNIA SUPREME COURT S166791 PETITION FOR REVIEW DENIED 10-22-2008 Against SUPERIOR COURT OF CONTRA COSTA COUNTY CHEVERON U.S.A.INC.,et al ,Real Parties of Interest, Court of Appeal,First Appellate District,Division Three ,No.A122609;REMITTUR A122508 APPEAL FIRST APPELLATE DISTRICT DIVISION 3 JUSTICE POLK AFFIRM DEMURRER OF COMPLAINT WITHOUT LEAVE TO AMEND versus SWAT ENERGY INC. et al. 09-10-2009.

PETITION FOR WRIT OF CERTIORARI

FRANCISCO MOLINA JR., IN PRO SE
810 MORRILL STREET
HAYWARD, CALIFORNIA 94541
TELEPHONE 510-481-0146

CERTIFICATE OF COMPLIANCE

IN THE UNITED STATES SUPREME COURT WRIT OF CERTIORARI

Francisco Molina Jr. IN PRO SE

PETITIONER

vs.

CHEVRON U.S.A. INC., S.W.A.T. ENERGY INC., STEVE TANG, EDDY WU, MARIAN TANG

RESPONDENTS

COUNT CERTIFICATION:

As required by Supreme Court Rule 33.1(h), I certify that the petition for a writ of certiorari contains 736 words, excluding the parts of the document that are exempted by Supreme Court Rule 33.1(d).

I declare under penalty of perjury that the foregoing is true and correct. Executed on 11/27/04 By: F Molina

Francisco Molina Jr. IN PRO SE

QUESTIONS PRESENTED FOR REVIEW

I. UNPRECEDENT, the U.S. Supreme Court has not had the opportunity to reviewed a case in which FRAUD UPON THE COURT (an exception to the Rooker-Feldman Doctrine), involved the Notice leadings of most Jurisdictions (Federal Rules of Civil Procedure (FRCP)), and involved Code Pleading of California (DEMURRERS).

A Constitutional Dilemma evolved between of State Rights (Demurrres) and Federal Rights (FRCP), in view of the Fourteen Amendment's guarantee of a Fair Trial.

II. This Court is asked, in Certiorari, to act upon the UNSETTLED ISSUE of FRAUD UPON THE COURT, and the fundamental INJUSTICE of Dismissal by DEMURRER of a Civil Complaint for Wrongful Termination Public Policy ; Petitioner asserts and claims:

(1) The U.S. Statute Law, Federal Rules of Civil Procedure (FRCP) Enacted by the U.S. Congress in 1938, to improve upon the Judiciary (abolished Demurrers).

(2) The equal protection of the LAW of the Fourteen Amendment Section One, controls because of FRAUD UPON THE COURT is an Exception to the Rooker-Feldman Doctrine.

III. Petitioner invokes this Court's "SUPERVISORY POWER" pursuant to the Judicial Code, 28 U.S.C. Section 455 (a) to promote the public confidence of the Judicial Process , and to put a STOP to the ASSAULT to the integrity of the Courts.

LIST OF PARTIES

CHEVRON U.S.A. INC., S.W.A.T. ENERGY INC., STEVE TANG, EDDY WU, MARIAN TANG

CORPORATE DISCLOSURE STATEMENT

CHEVRON U.S.A. Inc. is a publically traded corporation, Number:C0484301 Date Filed: 1/18/1965; Status: Active, Jurisdiction: PENNSYLVANIA; Address: 6001Bollinger Canyon Road, San Ramon, CA 94583; Agent of Service: THE PRENTICE-HALL CORPORATION SYSTEM INC.; Address:2730 Gateway Oaks Drive. Suite 100 Sacramento, CA 9533 ; P.O. Box 526036, Sacramento California 95852 ; Headquartered in San Ramon, California;File E-348724, Filed: January 4,2007.**Statement of Information** (Chevron U.S.A. Inc.): Corporation Officerrs: (1) Chief Executive Officeer Gary P.Lucquette, 1500 Louisiana Street, Houston ,Texas 77002; (2) Secretary Lydia I. Beese, 6001 Bollinger Canyon Road, San Ramon, CA 94583; (3) Chief Financial Officer Stephen J. Farrano 2005 Diamond Blvd. Concord, CA 94520

CORPORATE DISCLOSURE STATEMENT S.W.A.T. ENERGY Inc., Secretary of State Statement of Information Information No. 07-279319 Filed June 7,2007; S.W.A.T. ENERGY Inc. is a CALIFORNIA CORPORATION; Number C2633560 (Domestic Stock Corporation) Secretary of State Statement Information 07-279319 Dated Filed June 7,2007; Principal Executive Office: 3220 Blume Dr., Suite 118, Richmond CA 94806 ; Agent For Process: Stephen Tang 317 Glorietta Blvd., Orinda CA. 94563 ; Type of Business: Engineering; Certified 4/3/07 To be true: Marian Tang, CFO.

ARTICLES OF INCORPORATION No.2633560 Filed June 17,2005; Article II:Agent for service Stephen Tang 317 Glorietta Blvd., Orinda CA. 94563 Date Filed 6/17/2005; Status: Active; Jurisdiction: California; Address: 3220 Blume Drive Suite 118, Richmond California 94806; Agent For Process: Stephen Tang, 317 Gloriettta Blvd., Orinda CA 94563;

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CITATIONS OF OPINIONS AND ORDERS ENTERED IN THE CASE BY THE CALIFORNIA COURTS

The DISMISSAL of Plaintiff's Complaint July 31,2008 on the sustained demurrer by Chevron U.S.A. Inc., is **Wholly Flawed**:

FIRST The May 15,2008 MINUTE ORDER of "LAW AND MOTION MATTER" was not NOTICED by Chevron U.S.A.'s Attorneys (Litter Medelson),else Petitioner would have appeared.

SECOND Said ORDER was two days after Plaintiff's First Amended Complaint was filed on May 13,2008 (see footnote 1)

SEE [RECORD,VOLUME ONE, at Page 000040; Quote, "Superior Court- Martinez County of Contra Costa Department 09, Hearing Date: 04/15/08; Case MSC07-02846,Francisco Molina Jr.Vs. S.W.A.T. Energy Inc. ***MINUTE ORDER*** Proceedings: Hearing On Demurrer to Complaint of Molina,Jr.Filed by CHEV U.S.A. INC.; Not Reported Law & Motion Matter Heard Before Hon: Judge Judith S. Craddick, Clerk: C. Fortang,**No Appearance , Either Party**

There being no Opposition to the Court's Tentative Ruling, same is adopted as follows:

Defendants' special demurrers are sustained with leave to amend, as to the entire complaint. (Cal.Civ. Proc., section 430.10, subd. (f), see also, Cal.Code Civ. Proc., section 425.10, subd. (a).) The Complaint is "ambiguous," in that it is difficult to tell which of the lengthy introductory allegations apply to each of the named defendants, and to each cause of action.(Cal. Code Civ. Proc., section 430.10,subd.(f).) The complaint is also ambiguous as to whether plaintiff is attempting to state a fraud casue of action ;the complaint includes no separaely captioned fraud casue of action. Finally, the length of the recitation of background facts in the introductory allegations, the confusing wording of those allegations, the references, the confusing wording of those allegations, the references to legal authorities such as Nolo Press publications and attoreny general opinions, and the overall method of the complaint's organization, render the complaint "unintelligible" within the meaning of the special demurrer statute. (Id.) **Defendants' general demurrers are moot in light of this ruling. Plaintiff shall file and serve any amended complaint on or before May 15, 2008.** Plaintiff may wish to consider obtaining leal assistance in drafting any amended complaint. Any amended complaint shall comply fully with each of the following

requirements. ..... Date: 04/15/08 Signed C. Fortang Deputy Clerk".

APPENDIX A Denied Without Comment (Baxter and Corrigan JJ were recused, did not participate) In The Supreme Court of California S175223, En Banc, Filed Sep.9,2009; Titled: A12569 Relief Reverse Demurrer And Motion To Affirm By First Appellate Court Division Three on 6/29/09; Documented Fraud Upon The Court 7/10/08, Yet To Be Act Upon ,See Petition For Review Supreme Court 6-07-09 (Against Chevron U.S.A. for Fraud Upon the Court).

APPENDIX B Denied Without Comment (Baxter and Corrigan JJ were recused, did not participate) In The Supreme Court of California S174431, En Banc, Filed Sep.9,2009, Titled "Petition For Review After Decision By Court of Appeal First Appellate District Division Three".

APPENDIX C Denied Without Comment (Werdegar,J., was absent and did not participate. Baxter and Corrigan, JJ., were recused and did not participate.), In The Supreme Court of California Reply To Petition For Review, S166791, En Banc, Filed Oct.22,2008; Court of Appeal, First District,Div.3- No. A122609 , Francisco Molina Jr. vs.

Superior Court of Contra Costa (Real Parties of Interest: Chevron U.S.A. Inc., et al).

APPENDIX D REMITTITUR Issued SEP.10,2009; A122508 the First Appellate District One Division Three; "Respondent to recover costs".

DEPOSITION basis of REMITTITUR of Sep.10,2009 A122508 First Appellate District Division Three by Justice Pollack, J. , Filed Jun. 29, 2009 (6 Pages Printed on both sides), NOT TO BE PUBLISHED IN OFFICIAL REPORTS

OPINIONS BELOW

Note: If the state supreme court declines to hear a case coming from the state intermediate court, the United States Supreme Court can grant certiorari directly to the intermediate court. (28 U.S.C. Section 1257 (a))

JURISDICTION

PURSUANT TO TITLE 28 U.S.C. SECTION 1257.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

I. The Federal Statute, Federal Rules of Civil Procedure (FRCP) [Congress in 1938 enacted "Notice Pleadings and abolished DEMURRERS]. Because FRAUD UPON THE COURT is an EXCEPTION to the Rooker-Feldman Doctrine. Federal Law (FRCP Rule 60 (b) and Rule 60 (b)(3) et cetera.) TRUMPS State Law (Demurrers).

II. The UNITED STATES CONSTITUTION AMENDMENT FOURTEEN, SECTION One, requires the equal protection of the Laws.

III. Pursuant to Supreme Court RULE 14.1 (e) and pursuant to Statute 28 U.S.C. Section 2403 (b), invoke JURISDICTION, and Intervention by the California

Attorney General on the Constitutional Question of the UNSETTLED ISSUE of FRAUD UPON THE COURT, and the fundamental INJUSTICE of Dismissal by the State by DEMURRER of a Civil Complaint as a violation of the fundamental Equal Protection of the Laws of the Fourteen Amendment Section One.

STATEMENT OF THE CASE This Civil Complaint, dismissed by Demuurer, had three Admissions Deemed Entered For Late Responses against Chevron U.S.A. Inc, against S.W.A.T. Energy Inc., and against Steve Tang.

In preparation for the July 10,2008 Hearing on the Admissions Deemed Entered For Late Response against Steve Tang (of S W.A.T. Energy Inc.) , this Petitioner discovered FRAUD UPON THE COURT, which was made known to the File and Motions Commissioner, the Honorable Judith Sanders (AudioRecorded$_2$).

FRAUD UPON THE COURT was documented at the Trial Court between its Discovery on July 10,2008, and the July 29, 2008 Dismissal By DEMURRER of the Complaint ; as follows:

> [RECORD VOLUME TWO,
>
> At page 183, Notice of Renewed Motion and Renewed Motion For Admissions Established Entered against Chevron U.S.A. Inc., For Untimely Responses, Denied per Filing of 6/6/08 the Honorable Judith Sanders _Filed July 13,2008;

At Page 226, Plaintiff's Reply To Defendant Steve Tang's Opposition To Plaintiff's Motion For Order Establishing Admissions, Request For Sanctions _Filed June July 18,2008.
At Page 278, Notice of Motion and Motion For Default Sanction Against S.W.A.T. Energy Inc. and Order For Default For Perjury and Fraud,in the 6/18/08 Declaration of Defense Counsel; Memorandum of Points and Authorities ; Declaration of Francisco Molina Jr. _Filed July 8, 2008].

After the July 29,2008 Dismissal by TRIAL COURT of the complaint Wrongful Termination Public Policy , Petitioner claimed FRAUD UPON THE COURT in the Petition For Writ of Mandate $A125619_3$ Filed 7/29/09, titled "Relief Reverse Demurrer and Motion to Strike Without Leave To Amend First Amended Complaint; First Appellate Court Division Three on 7/30/09 Denied Writ Of Mandate by McGuiness, P.J.

In the first of three California Supreme Court Petitions, in the California Supreme Court S175223 Petition for Review Denied Filed Sep..9,2009 (First Appellate District No.A15619); Petitioner invoked FRCP Rule 60 (b)(3), at Page 5, II Grounds For Review, [Quote]; "Note; the In the

Petition For Review of Summary Denial of Writ of Mandate by Court of Appeal First Appellate District Division Three Fed.R.Civ.P. 60(b)(3) at P.4 ¶3, in part states that the court may relieve a party from final judgment for fraud whether denominated "intrinsic" or "extrinsic". End of Quote].

The subsequent California Supreme Court Petitions For Review were:

In The Supreme Court of California S174431, En Banc, Denial Filed Sep.9,2009, Titled "Petition For Review After Decision By Court of Appeal First Appellate District Division Three", No. A122508;

In the Supreme Court of California S166791, Petition For Review Denied Oct.22,2008 as to Appellate Court No. A122609;

REMITTITUR Issued SEP.10,2009, A122508 the First Appellate District One Division Three, "Respondent to recover costs". DEPOSITION basis of Remittitur of Sep.10, 2009 A122508 by Justice Pollack, J. , Filed June 29, 2009 (6 Pages Printed on both sides),NOT TO BE PUBLISHED IN OFFICIAL REPORTS.

1. [RECORD, VOLUME ONE, at Page 107, First Amended Complaint for Wrongful Termination Public Policy ;Fraud and Deceit;Conversion of Wages_Filed may 13,2008]

2. [RECORD, Reporters' Transcript of Audioed Proceedings, Discovery Hearing, July 10,2008, 14 Pages]

3. Denial Without Comment (Baxter and Corrigan JJ were recused, did not participate) In the Supreme Court of California S175223, En Banc, Filed Sep.9,2009

REASONS FOR GRANTING THE WRIT

Cases of FRAUD UPON THE COURT from State Courts in Certiorari to this Court have NOT BEEN ADDRESSED by the Supreme Court.

Reason (1) After the devastation of the Great Depression, Franklin Roosevelt and Congress Enacted in 1938 the Federal Rules of Civil Procedure (FRCP), which abolished DEMURRERS as an improvement to the Judiciary.

Reason (2) After the recent devastations, Barack Obama and Congress Enacted in 2009 the Fraud Recovery and Enforcement Act (Fraud Upon the U.S.Government), but there is no corresponding Civil Fraud Upon The Court.

Reason (3) Now it is Chief Justice John Roberts' turn to stepped up against the assault of the Judiciary and the Fourteen Amendment Section One, with FRAUD UPON THE COURT by these Defendants.

Reason (4) This Petitioner, a Civil Engineer, stepped up against the assault upon the Judiciary and Fourteen Amendment Section One, as to the FRAUD UPON THE COURT by these defendants ,and as to NON FEASANCE of the California State Courts to the benefit of Chevron U.S.A., et al.

Reason (5) This PRO SE Civil Engineer pleads upon this Court to Sua Sponte uphold the equal protection of the laws pursuant to the Judicial Code 28 U.S.C. Section 455 (a), as to promote the public confidence in the judicial process.

CONCLUSION

The UNSETTLED ISSUE of FRAUD UPON THE COURT, and the GROSS INJUSTICE of Dismissal by DEMURRER of a Civil Complaint, is in violation of the fundamental Equal Protection of the Laws of the Fourteen Amendment Section One.

The need to address FUNDAMENTAL INEQUITY between Notice Pleadings (FRCP) and Code Pleading (DEMURRERS), needs to be address by this COURT beyond the case of Conley vs.Gibson,355 U.S. 41 (1957 Justice Black)$_4$.

In these DIRE TIMES, this Supreme Court is asked to RESOLVE the CONSTITUTIONAL DILEMMA between the Federal Equal Protection of the Laws of the Fourteen Amendment Section One [Federal Rules of Civil Procedure (FRCP)] and of the State Rights [the continued use of

Demurrers by a few States, such as California].

In these DIRE TIMES, this Supreme Court is asked to RESTORE THE CONFIDENCE IN THE COURTS (Judicial Code 28 U.S.C. Section 455 (a).

The Gross MISCONDUCT of Fraud Upon The Court by some Litigators (Chevron-SWAT et al), and the NON FEASANCE by some Courts (California Courts, as in this subject case is a BAD COMBINATION in these DIRE TIMES, which can cause a Pandemic of Lawlessness (as that which prompted the enactment of the Fraud Recovery and Enforcement Act (FREA) of 2009).

BY CHANCE this Civil Engineer Petitioner discovered the Fraud Upon The Court$_8$ (also see Foonote_7), which combined with the Federal Fourteen Amendment Section One, enabled this Petitioner to address the INEQUITY IN LAW between Notice Pleadings of the Federal FRCP, and the Demurrers in California's Code Pleading.

BY CHANCE the combination of Fraud Upon The Court and INEQUITY IN LAW of Demurrers as a violation of the the Fourteen Amendment, presented by this case , gives this SUPREME COURT the Duty and the Opportunity to

Uphold the U.S.Constitution, as has those Courts of the past have done (Justice Hugo L.Black, affirmed the Federal Rules of Civil Procedure (FRCP).

This Law Abying Civil Engineer, has faced with Fraud Upon the Court that should have been dealt with, as was done in the similar case of APTIX, by a Federal Circuit Court.

The Trial Judge's ORDER that sustained Chevron's DEMURRER is **BOGUS** because it declared, **"Defendants' general demurrers are moot in light of this ruling. Plaintiff shall file and serve any amended complaint on or before May 15,2008."** Well, said ORDER was two days after Paintiff's First Amended Complaint was filed on May 13,2008 (see footnote 1); SEE [RECORD, VOLUME ONE, at Page 040].

This PER SE Civil Engineer was denied the Fourteen Amendment's gurantee of a Fair Trial because of the California's Code Pleading DEMURRERS, and because of the FRAUD UPON THE COURT by Chevron U.S.A. and its codefendants.

This Civil Engineer certifies that this Writ is conformance to the Rules of the United States Supreme Court.

4 Conley vs Gibson,355 U.S. 41 (1957 Justice Hugo Black)

5 [(Fraud Upon The Court documented at Trial Court) RECORD VOLUME TWO, at page 183, at page 226, and at page 278]

6 APTIX Corp. & META Systems Inc. And Amr Moshen (2005) United States Court of Appeals for the Federal Circuit Case No.04-1368, in which APTIX's Dr. Amr Mohsen altered and fabricated evidence, and committed perjury.

7 [Petition for Review of Summary Denial of Writ of Mandate by Court of Appeal First Appellate District Division Three_in the Supreme Court of California-Filed August.5,2009_at Page 1 "Statement of the Issues"

App. A

IN THE SUPREME COURT OF CALIFORNIA
S175223 En Banc

FRANCISCO MOLINA,JR. , Petitioner

v.

SUPERIOR COURT OF CONTRA COSTA COUNTY,
Respondent;
CHEVRON U.S.A. ,INC., Real Party in Interest

The petition for review is denied.
Baxter and Corrigan, JJ., were recused and did not participate.

SUPREME COURT FILED SEP-9 2009
Frrederick K. Ohlrich Clerk, Deputy

GEORGE
Chief Justice

App. B

IN THE SUPREME COURT OF CALIFORNIA
S175223 En Banc

FRANCISCO MOLINA,JR. , Petitioner

v.

SUPERIOR COURT OF CONTRA COSTA COUNTY,
Respondent;

CHEVRON U.S.A. ,INC., Real Party in Interest

The petition for review is denied.
Baxter and Corrigan, JJ., were recused and did not participate.

SUPREME COURT FILED SEP-9 2009
Frrederick K. Ohlrich Clerk, Deputy

GEORGE
Chief Justice

App. C

IN THE SUPREME COURT OF CALIFORNIA
S166791 En Banc

FRANCISCO MOLINA,JR. , Petitioner

v.

SUPERIOR COURT OF CONTRA COSTA COUNTY,
Respondent;

CHEVRON U.S.A. ,INC.,et al Real Party in Interest

The petition for review is denied.
Wedeger, J. was absent and did not participated
Baxter and Corrigan, JJ., were recused and did not participate.

SUPREME COURT FILED OCT 22 2008
Frrederick K. Ohlrich Clerk, Deputy

GEORGE
Chief Justice

App. D

IN THE COURT OF APPEAL
OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

FRANCISCO MOLINA,JR. , Petitioner v. SUPERIOR COURT OF CONTRA COSTA COUNTY, Respondent CHEVRON U.S.A. ,INC., et al., – Real Party in Interest	FILED JUL 30 2009 Diana Herbert Deputy Clerk A125619 (Contra Costa County Super.Ct. No.C07-02846)

THE COURT *

The petition for a writ of mandate is denied.

Dated: JUL 30 2009 **McGuiness, P.J.** P.J.

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* McGuiness, P.J., Siggins,J., & Jenkins, J.

App. E

COURT OF APPEAL,FIRST APPELLATE DISTRICT

150 MCALISTER STREET

SAN FRANCISCO, CA 94102

DIVISION 3

Francisco Molina Jr.
810 Morrill Street
Hayward, CA 94541

FRANCISCO MOLINA JR.,
Plaintiff and Appellant,
v.
SWAT ENERGY INC. Et al.,
Defendants and Respondents.
A125619 Contra Costa County No.C0702846

** REMITTITUR**

THE COURT *

The petition for a writ of mandate is denied.

I, Diana Herbert, Clerk of the Court of Appeal of the State of California for the First Appellate District, do hereby certify that the decision entered in the above-entitled cause on June 29,2009 has now become final.

___Appellant ___✓Respondent to recover costs
___Each party to bear own costs
___Costs are not awarded in this proceeding
___See decision for cost determination

Witness my hand and the Seal of the Court affixed at my office this SEP 10,2009
Diana Herbert Clerk of the Court
F.Castuera Deput Clerk